**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**
**ORIGINAL JURISDICTION**

Dated: Nainital the May 16th , 2006

Criminal Bail Application No. 409 of 2006

**Order on the bail application of accused**

**CRIMINAL SIDE**

Gulsher @ Gulfam S/o Yaseen
R/o village Kota Muradnagar Khera
P.S. Bhagwanpur, District Haridwar .....Applicant

**Versus**

State of Uttaranchal ....Opposite Party

Arising out of case crime No. 48-A of 2006
Under Sections 376, 323, 452, 504, 506 IPC
P.S. Bhagwanpur Roorkee
District Haridwar

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**Hon'ble J. C. S. Rawat, J.**

Heard Sri Manish Arora learned counsel for the applicant, Sri Ajay Veer Pundir learned counsel for the complainant and learned A.G.A. for the State.

Perused the record. The case diary is available with the learned AGA. It was pointed out by the learned AGA that there is a statement of the prosecution witness that on 24.03.2006 at 8 o'clock the father of the victim objected the applicant for visiting his house. It was also stated that the girl was talking with the applicant. On being asked by the father, the victim told her father that the applicant used to rape her for the last two months without her consent. The matter came into light on 24.03.2006 and the report to that effect was lodged on 31.03.2006. It was contended that the victim was also a consenting party if any offence has been committed. Apart his, it was contended that the age of the girl is more than 16 years and below 18 years. It was contended that the medical report is the only evidence which supports the fact. There is no clear cut evidence that the girl was minor at the time of incident. It was further contended that the medical report does not show that the hymen was torn. Considering the contention, facts and circumstances of the case, it is a fit case for bail.

Let the applicant-accused be released on bail on executing a personal bond and two sureties each in the like amount to the satisfaction of the Magistrate concerned.

**(J.C.S. Rawat, J.)**

Dated 16.05.2006

LSR